

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

DON WILLIAMS d/b/a URTHCOM, LLC,)	
Plaintiff,)	
v.)	08 C 2839
)	Judge Holderman
SOLID CONTACT BASEBALL, INC.,)	Magistrate Judge Ashman
Defendant.)	
_____)	
)	
SOLID CONTACT BASEBALL, INC.,)	
Counter-Plaintiff,)	
v.)	
)	
DON WILLIAMS,)	
Counter-Defendant.)	
_____)	
)	
SOLID CONTACT BASEBALL, INC.,)	
Third Party Plaintiff,)	
v.)	
)	
URTHCOM, LLC, PETER CEKO, and)	
CEKOM CORP.,)	
Third Party Defendants.)	
_____)	
)	
PETER CEKO, individually and derivatively)	
on behalf of SOLID CONTACT BASEBALL,)	
INC.,)	
Third-Party Defendant/Counter)	
Plaintiff,)	
v.)	
)	
SOLID CONTACT BASEBALL, INC.,)	
ROBERT A. MOSS, SR. and ROBERT A.)	
MOSS, JR.,)	
Counter-Defendants.)	

MOTION TO STRIKE AND TO DISMISS

Third-Party Defendant/Counter-Plaintiff Peter Ceko (“Ceko”), and Third-Party Defendant Cekom Corp. (“Cekom”) (collectively, “Third Party Defendants”), by their attorneys, move to strike and to dismiss Counts II, III and IV of the third-party complaint (“TP Compl.”)

filed by Plaintiff, Solid Contact Baseball, Inc. (“SCB”), pursuant to Federal Rule of Civil Procedure 12(b)(6). In support of their motion, Third-Party Defendants state as follows:

1. SCB has asserted claims for fraud in the inducement (Count II), violation of the Illinois Uniform Deceptive Trade Practices Act (“DTPA”) (Count III) and civil conspiracy (Count IV) against Ceko and Cekom in connection with the underlying contract dispute between SCB and Don Williams d/b/a Urthcom, LLC (“Williams”) over the production of an infomercial for SCB.

2. As set forth more fully in the accompanying Memorandum of Law, which is incorporated as if set forth herein, any allegation that Ceko is the “alter-ego” of Cekom should be stricken because such allegations plead mere legal conclusions, which fail to state a claim as a matter of law.

3. Count II (fraud in the inducement) and Count IV (civil conspiracy) should be dismissed because they fail to plead fraud with the requisite particularity required by Federal Rule of Civil Procedure 9(b), and otherwise fail to state a claim for which relief may be granted.

4. Count III (DTPA) fails to state a claim for which relief may be granted because SCB does not seek injunctive relief, which is the only relief afforded under the DTPA, and the Third Party Complaint does not allege that Ceko engage in any deceptive trade practice in the course of his business, vocation or occupation.

WHEREFORE, for the reasons set forth above, and for the reasons set forth in their accompanying Memorandum of Law, Defendants, Peter Ceko and Cekom Corp., respectfully request that this Court grant their Motion to Strike and to Dismiss Counts II, III and IV of the Third-Party Complaint as against them.

PETER CEKO AND CEKOM CORP.

By: /s/ Daniel C. McCabe
One of their attorneys

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CERTIFICATE OF SERVICE

I, Daniel C. McCabe, an attorney of record in this matter, hereby state that, on August 18, 2008, I electronically filed the foregoing Defendants, Peter Ceko and Cekom Corp.'s Motion to Strike and to Dismiss, Memorandum of Law in Support of their Motion To Strike and To Dismiss, and Verified Counterclaim, using the CM/ECF SYSTEM, which will send notification of such filing to all attorneys of record, on this the 18th day of August, 2008.